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SENATE BILL NO. 336

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Transportation
on February 22, 2024)

(Patron Prior to Substitute—Senator Roem)

A BILL to amend and reenact §§ 33.2-373, 46.2-208, and 46.2-882.1 of the Code of Virginia, relating to photo speed monitoring devices; high-risk intersection segments.

Be it enacted by the General Assembly of Virginia:

1. That §§ 33.2-373, 46.2-208, and 46.2-882.1 of the Code of Virginia are amended and reenacted as follows:

§ 33.2-373. Virginia Highway Safety Improvement Program.

A. The Board shall establish the Virginia Highway Safety Improvement Program (the Program) to reduce motorized and nonmotorized fatalities and severe injuries on highways in the Commonwealth, whether such highways are state or locally maintained. The Board shall use funds set aside pursuant to § 33.2-358 and any funds deposited pursuant to § 46.2-882.1 for the Program.

B. Beginning in fiscal year 2024, the Board shall, after program administration costs, allocate the funds in accordance with its adopted investment strategy pursuant to subsection C as follows:

1. At least 54 percent for infrastructure projects that address a hazardous road location or feature and address an identified highway safety problem;

2. At least 29 percent for strategies and activities to address behavioral causes of crashes that result in fatalities and severe injuries; and

3. The remaining amount for eligible purposes under this section pursuant to the investment strategy adopted pursuant to subsection C.

C. The Board shall adopt an investment strategy to guide the investments of the Program. The strategy shall cover a period of at least five years and seek to achieve a significant reduction in the anticipated number of fatalities and severe injuries over the covered period and shall give priority to projects, strategies, and activities based on the expected reduction in fatalities and severe injuries relative to cost, including improvements that are widely implemented based on a high-risk roadway feature that is correlated with a particular crash type, rather than crash frequency.

§ 46.2-208. Records of Department; when open for inspection; release of privileged information.

A. The following information shall be considered privileged and unless otherwise provided for in this title shall not be released except as provided in subsection B:

1. Personal information as defined in § 2.2-3801;

2. Driver information, defined as all data that relates to driver's license status and driver activity;

3. Special identification card information, defined as all data that relates to identification card status; and

4. Vehicle information, including all descriptive vehicle data and title, registration, and vehicle activity data, but excluding crash data.

B. The Commissioner shall release such information only under the following conditions:

1. Notwithstanding other provisions of this section, medical information included in personal information shall be released only to a physician, a physician assistant, or an advanced practice registered nurse in accordance with a proceeding under §§ 46.2-321 and 46.2-322.

2, 3. [Repealed.]

4. Upon the request of (i) the subject of the information, (ii) the parent of a minor who is the subject of the information, (iii) the guardian of the subject of the information, (iv) the authorized agent or representative of the subject of the information, or (v) the owner of the vehicle that is the subject of the information, the Commissioner shall provide him with the requested information and a complete explanation of it. Requests for such information need not be made in writing or in person and may be made orally or by telephone, provided that the Department is satisfied that there is adequate verification of the requester's identity. When so requested in writing by (a) the subject of the information, (b) the parent of a minor who is the subject of the information, (c) the guardian of the subject of the information, (d) the authorized agent or representative of the subject of the information, or (e) the owner of the vehicle that is the subject of the information, the Commissioner shall verify and, if necessary, correct the personal information provided and furnish driver, special identification card, or vehicle information. If the requester is requesting such information in the scope of his official business as counsel from a public defender's office or as counsel appointed by a court, such records shall be provided free of charge.

5. Upon the written request of any insurance carrier or surety, or authorized agent of either, the Commissioner shall furnish to such requester information in the record of any person subject to the

60 provisions of this title. The transcript shall include any record of any conviction of a violation of any
61 provision of any statute or ordinance relating to the operation or ownership of a motor vehicle or of any
62 injury or damage in which he was involved and a report filed pursuant to § 46.2-373. No such report of
63 any conviction or crash shall be made after 60 months from the date of the conviction or crash unless
64 the Commissioner or court used the conviction or crash as a reason for the suspension or revocation of a
65 driver's license or driving privilege, in which case the revocation or suspension and any conviction or
66 crash pertaining thereto shall not be reported after 60 months from the date that the driver's license or
67 driving privilege has been reinstated. The response of the Commissioner under this subdivision shall not
68 be admissible in evidence in any court proceedings.

69 6. Upon the written request of any business organization or its authorized agent, in the conduct of its
70 business, the Commissioner shall compare personal information supplied by the requester with that
71 contained in the Department's records and, when the information supplied by the requester is different
72 from that contained in the Department's records, provide the requester with correct information as
73 contained in the Department's records. Personal information provided under this subdivision shall be
74 used solely for the purpose of pursuing remedies that require locating an individual.

75 7. Upon the written request of any business organization or its authorized agent, the Commissioner
76 shall provide vehicle information to the requester. Disclosures made under this subdivision shall not
77 include any personal information, driver information, or special identification card information and shall
78 not be subject to the limitations contained in subdivision 6.

79 8. Upon the written request of any motor vehicle rental or leasing company or its authorized agent,
80 the Commissioner shall (i) compare personal information supplied by the requester with that contained
81 in the Department's records and, when the information supplied by the requester is different from that
82 contained in the Department's records, provide the requester with correct information as contained in the
83 Department's records and (ii) provide the requester with driver information of any person subject to the
84 provisions of this title. Such information shall include any record of any conviction of a violation of any
85 provision of any statute or ordinance relating to the operation or ownership of a motor vehicle or of any
86 injury or damage in which the subject of the information was involved and a report of which was filed
87 pursuant to § 46.2-373. No such information shall include any record of any conviction or crash more
88 than 60 months after the date of such conviction or crash unless the Commissioner or court used the
89 conviction or crash as a reason for the suspension or revocation of a driver's license or driving privilege,
90 in which case the revocation or suspension and any conviction or crash pertaining thereto shall cease to
91 be included in such information after 60 months from the date on which the driver's license or driving
92 privilege was reinstated. The response of the Commissioner under this subdivision shall not be
93 admissible in evidence in any court proceedings.

94 9. Upon the request of any federal, state, or local governmental entity, local government group
95 self-insurance pool, law-enforcement officer, attorney for the Commonwealth, or court, or the authorized
96 agent of any of the foregoing, the Commissioner shall compare personal information supplied by the
97 requester with that contained in the Department's records and, when the information supplied by the
98 requester is different from that contained in the Department's records, provide the requester with correct
99 information as contained in the Department's records. The Commissioner shall also provide driver,
100 special identification card, and vehicle information as requested pursuant to this subdivision. The
101 Commissioner may release other appropriate information to the governmental entity upon request. Upon
102 request in accordance with this subdivision, the Commissioner shall furnish a certificate, under seal of
103 the Department, setting forth a distinguishing number or license plate of a motor vehicle, trailer, or
104 semitrailer, together with the name and address of its owner. The certificate shall be prima facie
105 evidence in any court in the Commonwealth of the ownership of the vehicle, trailer, or semitrailer to
106 which the distinguishing number or license plate has been assigned by the Department. However, the
107 Commissioner shall not release any photographs pursuant to this subdivision unless the requester
108 provides the depicted individual's name and other sufficient identifying information contained on such
109 individual's record. The information in this subdivision shall be provided free of charge.

110 The Department shall release to a requester information that is required for a requester to carry out
111 the requester's official functions in accordance with this subdivision. If the requester has entered into an
112 agreement with the Department, such agreement shall be in a manner prescribed by the Department, and
113 such agreement shall contain the legal authority that authorizes the performance of the requester's
114 official functions and a description of how such information will be used to carry out such official
115 functions. If the Commissioner determines that sufficient authority has not been provided by the
116 requester to show that the purpose for which the information shall be used is one of the requester's
117 official functions, the Commissioner shall refuse to enter into any agreement. If the requester submits a
118 request for information in accordance with this subdivision without an existing agreement to receive the
119 information, the request shall be in a manner prescribed by the Department, and such request shall
120 contain the legal authority that authorizes the performance of the requester's official functions and a
121 description of how such information will be used to carry out such official functions. If the

Commissioner determines that sufficient authority has not been provided by the requester to show that the purpose for which such information shall be used is one of the requester's official functions, the Commissioner shall deny such request.

Notwithstanding the provisions of this subdivision, the Department shall not disseminate to any federal, state, or local government entity, law-enforcement officer, or law-enforcement agency any privileged information for any purposes related to civil immigration enforcement unless (i) the subject of the information provides consent or (ii) the requesting agency presents a lawful judicial order, judicial subpoena, or judicial warrant. When responding to a lawful judicial order, judicial subpoena, or judicial warrant, the Department shall disclose only those records or information specifically requested. Within three business days of receiving a request for information for the purpose of civil immigration enforcement, the Commissioner shall send a notification to the individual about whom such information was requested that such a request was made and the identity of the entity that made such request.

The Department shall not enter into any agreement pursuant to subsection E with a requester pursuant to this subdivision unless the requester certifies that the information obtained will not be used for civil immigration purposes or knowingly disseminated to any third party for any purpose related to civil immigration enforcement.

10. Upon the request of the driver licensing authority in any foreign country, the Commissioner shall provide whatever driver and vehicle information the requesting authority shall require to carry out its official functions. The information shall be provided free of charge.

11. a. For the purpose of obtaining information regarding noncommercial driver's license holders, upon the written request of any employer, prospective employer, or authorized agent of either, and with the written consent of the individual concerned, the Commissioner shall (i) compare personal information supplied by the requester with that contained in the Department's records and, when the information supplied by the requester is different from that contained in the Department's records, provide the requester with correct information as contained in the Department's records and (ii) provide the requester with driver information in the form of a transcript of an individual's record, including all convictions, all crashes, any type of driver's license that the individual currently possesses, and all driver's license suspensions, revocations, cancellations, or forfeiture, provided that such individual's position or the position that the individual is being considered for involves the operation of a motor vehicle.

b. For the purpose of obtaining information regarding commercial driver's license holders, upon the written request of any employer, prospective employer, or authorized agent of either, the Commissioner shall (i) compare personal information supplied by the requester with that contained in the Department's records and, when the information supplied by the requester is different from that contained in the Department's records, provide the requester with correct information as contained in the Department's records and (ii) provide the requester with driver information in the form of a transcript of such individual's record, including all convictions, all crashes, any type of driver's license that the individual currently possesses, and all driver's license suspensions, revocations, cancellations, forfeitures, or disqualifications, provided that such individual's position or the position that the individual is being considered for involves the operation of a commercial motor vehicle.

12. Upon the written request of any member of a volunteer fire company or volunteer emergency medical services agency and with written consent of the individual concerned, or upon the request of an applicant for membership in a volunteer fire company or to serve as volunteer emergency medical services personnel, the Commissioner shall (i) compare personal information supplied by the requester with that contained in the Department's records and, when the information supplied by the requester is different from that contained in the Department's records, provide the requester with correct information as contained in the Department's records and (ii) provide driver information in the form of a transcript of the individual's record, including all convictions, all crashes, any type of driver's license that the individual currently possesses, and all license suspensions, revocations, cancellations, or forfeitures. Such transcript shall be provided free of charge if the request is accompanied by appropriate written evidence that the person is a member of or applicant for membership in a volunteer fire company or a volunteer emergency medical services agency and the transcript is needed by the requester to establish the qualifications of the member, volunteer, or applicant to operate equipment owned by the volunteer fire company or volunteer emergency medical services agency.

13. Upon the written request of a Virginia affiliate of Big Brothers Big Sisters of America, a Virginia affiliate of Compeer, or the Virginia Council of the Girl Scouts of the USA, and with the consent of the individual who is the subject of the information and has applied to be a volunteer with the requester, or on the written request of a Virginia chapter of the American Red Cross, a Virginia chapter of the Civil Air Patrol, or Faith in Action, and with the consent of the individual who is the subject of the information and applied to be a volunteer vehicle operator with the requester, the Commissioner shall (i) compare personal information supplied by the requester with that contained in

183 the Department's records and, when the information supplied by the requester is different from that
184 contained in the Department's records, provide the requester with correct information as contained in the
185 Department's records and (ii) provide driver information in the form of a transcript of the applicant's
186 record, including all convictions, all crashes, any type of driver's license that the individual currently
187 possesses, and all license suspensions, revocations, cancellations, or forfeitures. Such transcript shall be
188 provided at a fee that is one-half the normal charge if the request is accompanied by appropriate written
189 evidence that the person has applied to be a volunteer or volunteer vehicle operator with the requester as
190 provided in this subdivision.

191 14. On the written request of any person who has applied to be a volunteer with a court-appointed
192 special advocate program pursuant to § 9.1-153, the Commissioner shall provide a transcript of the
193 applicant's record, including all convictions, all crashes, any type of driver's license that the individual
194 currently possesses, and all license suspensions, revocations, cancellations, or forfeitures. Such transcript
195 shall be provided free of charge if the request is accompanied by appropriate written evidence that the
196 person has applied to be a volunteer with a court-appointed special advocate program pursuant to
197 § 9.1-153.

198 15, 16. [Repealed.]

199 17. Upon the request of an attorney representing a person involved in a motor vehicle crash, the
200 Commissioner shall provide the vehicle information for any vehicle involved in the crash and the name
201 and address of the owner of any such vehicle.

202 18. Upon the request, in the course of business, of any authorized agent of an insurance company or
203 of any not-for-profit entity organized to prevent and detect insurance fraud, or perform rating and
204 underwriting activities, the Commissioner shall provide (i) all vehicle information, the owner's name and
205 address, descriptive data and title, registration, and vehicle activity data, as requested, or (ii) the driver
206 name, license number and classification, date of birth, and address information for each driver under the
207 age of 22 licensed in the Commonwealth, provided that such request includes the driver's license number
208 or address information of such driver. Use of such information shall be limited to use in connection with
209 insurance claims investigation activities, antifraud activities, rating, or underwriting.

210 19. [Repealed.]

211 20. Upon the written request of the compliance agent of a private security services business, as
212 defined in § 9.1-138, which is licensed by the Virginia Department of Criminal Justice Services, the
213 Commissioner shall provide the name and address of the owner of the vehicle under procedures
214 determined by the Commissioner.

215 21. (For contingent expiration date, see Acts 2023, c. 738, cl. 2) Upon the request of the operator of
216 a toll facility, a traffic light signal violation monitoring system acting on behalf of a government entity,
217 a traffic control device violation monitoring system acting on behalf of a government entity, or the
218 Dulles Access Highway, or an authorized agent or employee of a toll facility operator, a traffic light
219 signal violation monitoring system operator acting on behalf of a government entity, a traffic control
220 device violation monitoring system operator acting on behalf of a government entity, or the Dulles
221 Access Highway, for the purpose of obtaining vehicle owner data under subsection H of § 15.2-968.1,
222 subsection A of § 33.2-504, subsection M of § 46.2-819.1, subsection P of § 46.2-819.3:1, or subsection
223 N of § 46.2-819.5. Information released pursuant to this subdivision shall be limited to (i) the name,
224 physical address, and, if available, email or other electronic address of the owner of the vehicle having
225 failed to pay a toll, comply with a traffic light signal, or comply with a traffic control device or having
226 improperly used the Dulles Access Highway and (ii) the vehicle information, including all descriptive
227 vehicle data and title and registration data of the same vehicle.

228 21. (For contingent effective date, see Acts 2023, c. 738, cl. 2) Upon the request of the operator of a
229 toll facility, a traffic light photo monitoring system acting on behalf of a government entity, or the
230 Dulles Access Highway, or an authorized agent or employee of a toll facility operator or traffic light
231 photo monitoring system operator acting on behalf of a government entity or the Dulles Access
232 Highway, for the purpose of obtaining vehicle owner data under subsection H of § 15.2-968.1,
233 subsection A of § 33.2-504, subsection M of § 46.2-819.1, subsection P of § 46.2-819.3:1, or subsection
234 N of § 46.2-819.5. Information released pursuant to this subdivision shall be limited to the name,
235 physical address, and, if available, email or other electronic address of the owner of the vehicle having
236 failed to pay a toll or having failed to comply with a traffic light signal or having improperly used the
237 Dulles Access Highway and the vehicle information, including all descriptive vehicle data and title
238 registration data of the same vehicle.

239 22-26. [Repealed.]

240 27. Upon the written request of the executor or administrator of a deceased person's estate, the
241 Department shall, if the deceased person had been issued a driver's license or special identification card
242 by the Department, supply the requester with a hard copy image of any photograph of the deceased
243 person kept in the Department's records.

244 28. [Repealed.]

29. a. Upon written agreement, the Commissioner may digitally verify the authenticity and validity of a driver's license, learner's permit, or special identification card to the American Association of Motor Vehicle Administrators, a motor vehicle dealer as defined in § 46.2-1500, or another organization approved by the Commissioner.

b. Upon written agreement, the Commissioner may release minimum information as needed in the Department's record through any American Association of Motor Vehicle Administrators service program created for the purpose of the exchange of information to any business, government agency, or authorized agent who would otherwise be authorized to receive the information requested pursuant to this section.

30. Upon the request of the operator of a video-monitoring system as defined in § 46.2-844 acting on behalf of a government entity, the Commissioner shall provide vehicle owner data pursuant to subsection B of § 46.2-844. Information released pursuant to this subdivision shall be limited to the name and address of the owner of the vehicle having passed a stopped school bus and the vehicle information, including all descriptive vehicle data and title and registration data for such vehicle.

31. Upon the request of the operator of a photo speed monitoring device as defined in § 46.2-882.1 acting on behalf of a government entity, the Commissioner shall provide vehicle owner data pursuant to subsection B *H* of § 46.2-882.1. Information released pursuant to this subdivision shall be limited to the name and address of the owner of the vehicle having committed a *vehicle speed* violation of ~~§ 46.2-873 or 46.2-878.1~~, as defined in § 46.2-882.1, and the vehicle information, including all descriptive vehicle data and title and registration data, for such vehicle.

32. Notwithstanding the provisions of this section other than subdivision 33, the Department shall not release, except upon request by the subject of the information, the guardian of the subject of the information, the parent of a minor who is the subject of the information, or the authorized agent of the subject of the information, or pursuant to a court order, (i) proof documents submitted for the purpose of obtaining a driving credential or a special identification card, (ii) the information in the Department's records indicating the type of proof documentation that was provided, or (iii) applications relating to the issuance of a driving credential or a special identification card. As used in this subdivision, "proof document" means any document not originally created by the Department that is submitted to the Department for the issuance of any driving credential or special identification card. "Proof document" does not include any information contained on a driving credential or special identification card.

33. Notwithstanding the provisions of this section, the Department may release the information in the Department's records that it deems reasonable and necessary for the purpose of federal compliance audits.

C. Information disclosed or furnished shall be assessed a fee as specified in § 46.2-214, unless as otherwise provided in this section.

D. Upon the receipt of a completed application and payment of applicable processing fees, the Commissioner may enter into an agreement with any governmental authority or business to exchange information specified in this section by electronic or other means.

E. The Department shall not release any privileged information pursuant to this title unless the Department has entered into a written agreement authorizing such release. The Department shall require the requesting entity to specify the purpose authorized pursuant to this title that forms the basis for the request and provide the permissible purpose as defined under 18 U.S.C. § 2721(b). Privileged information requested by an entity that has been altered or aggregated may be used only for the original purposes specified in the written agreement consistent with this title. The requesting entity shall disseminate privileged information only to third parties subject to the original purpose specified in the written agreement consistent with this title. Any agreement that does not allow third-party distribution shall include a statement that such distribution is prohibited. Such agreement may limit the scope of any authorized distribution consistent with this title. Privileged information distributed to any third party shall only be further distributed by such third party subject to the original purpose specified and consistent with this title, or unless such third party is the subject of the information, the parent of a minor who is the subject of the information, the guardian of the subject of the information, the authorized agent or representative of the subject of the information, or the owner of the vehicle that is the subject of the information.

Any agreement entered into pursuant to this subsection between the Department and the Department of State Police shall specify (i) that privileged information shall be distributed only to authorized personnel of an entity meeting the definition of a criminal justice agency as defined in § 9.1-101 and other comparable local, state, and federal criminal justice agencies and entities issued a Virginia S-Originating Agency Identification (S-ORI) status; (ii) that privileged information shall be accessed, used, and disseminated only for the administration of criminal justice as defined in § 9.1-101; and (iii) that no local, state, or federal government entity, through the Virginia Criminal Information Network (VCIN) or any other method of dissemination controlled by the Department of State Police, has access

306 to information stored by the Department in violation of the protections contained in this section. The
307 Department of State Police shall notify the Department prior to when a new entity is to be granted
308 S-ORI status and provide a copy of the S-ORI application to the Department. The Department of State
309 Police shall not allow any entity to access Department data through VCIN if the Department objects in
310 writing to the entity obtaining such data.

311 The provisions of this subsection shall not apply to (a) requests for information made pursuant to
312 subdivision B 4; (b) a request made by an entity authorized to receive privileged information pursuant to
313 subsection B, provided that such request is made on a form provided by the Department, other than a
314 written agreement, that requires the requester to certify that such entity is entitled to receive such
315 information pursuant to this title, state the purpose authorized pursuant to subsection B that forms the
316 basis for the request, explain why the information requested is necessary to accomplish the stated
317 purpose, and certify that the information will be used only for the stated purpose and the information
318 received shall not be disseminated to third parties unless there is authorization to do so; or (c) the
319 release of information to a law-enforcement officer or agency during an emergency situation, provided
320 that (1) the requesting entity is authorized to receive such information pursuant to subdivision B 9, (2)
321 the timely release of such information is in the interest of public safety, and (3) the requesting entity
322 completes the form required pursuant to clause (b) within 48 hours of the release of such information.

323 F. Any person that receives any privileged information that such person knows or has reason to
324 know was received in violation of this title shall not disseminate any such information and shall notify
325 the Department of the receipt of such privileged information.

326 G. The Department shall conduct audits annually based on a risk assessment to ensure that privileged
327 information released by the Department pursuant to this title is being used as authorized by law and
328 pursuant to the agreements entered into by the Department. If the Department finds that privileged
329 information has been used in a manner contrary to law or the relevant agreement, the Department may
330 revoke access.

331 H. Any request for privileged information by an authorized agent of a governmental entity shall be
332 governed by the provisions of subdivision B 9.

333 **§ 46.2-882.1. Use of photo speed monitoring devices in highway work zones, school crossing**
334 **zones, and high-risk intersection segments; civil penalty.**

335 A. For the purposes of this section:

336 *"High-risk intersection segment" means any highway or portion thereof located not more than 1,000*
337 *feet from the limits of the property of a school that is part of or adjacent to an intersection containing a*
338 *marked crosswalk that is identified in the manner provided in this section as one in which a traffic*
339 *fatality has occurred since January 1, 2014.*

340 *"Highway work zone" has the same meaning ascribed to it in § 46.2-878.1.*

341 *"Photo speed monitoring device" means equipment that uses radar or LIDAR-based speed detection*
342 *and produces one or more photographs, microphotographs, videotapes, or other recorded images of*
343 *vehicles.*

344 *"School crossing zone" has the same meaning ascribed to it in § 46.2-873.*

345 *"Vehicle speed violation" means a violation of this title resulting from the operation of a vehicle in*
346 *excess of the speed limit, including a violation of § 46.2-873 or 46.2-878.1.*

347 B. A state or local law-enforcement agency may place and operate a photo speed monitoring device
348 in school crossing zones for the purposes of recording violations of § 46.2-873 and in highway work
349 zones for the purposes of recording violations of § 46.2-878.1.

350 *A state or local law-enforcement agency may place and operate a photo speed monitoring device at*
351 *a high-risk intersection segment located within the locality for the purpose of recording vehicle speed*
352 *violations, provided that such law-enforcement agency certifies that a traffic fatality has occurred since*
353 *January 1, 2014, in such segment.*

354 ~~±~~ C. The operator of a vehicle shall be liable for a monetary civil penalty imposed pursuant to this
355 section if such vehicle is found, as evidenced by information obtained from a photo speed monitoring
356 device, to be traveling at speeds of at least 10 miles per hour above the posted ~~school crossing zone or~~
357 ~~highway work zone~~ speed limit ~~within such school crossing zone or highway work zone in the zone~~
358 ~~monitored by the photo speed monitoring device.~~ Such civil penalty shall not exceed \$100, and any
359 prosecution shall be instituted and conducted in the same manner as prosecution for traffic infractions.
360 Civil penalties collected under this section resulting from a summons issued by a local law-enforcement
361 officer shall be paid to the locality in which such violation occurred. Civil penalties collected under this
362 section resulting from a summons issued by a law-enforcement officer employed by the Department of
363 State Police shall be paid into the Literary Fund. *However, all civil penalties collected under this section*
364 *resulting from a summons issued based on evidence obtained from a photo speed monitoring device*
365 *placed and operated at a high-risk intersection segment shall be paid to the Commonwealth*
366 *Transportation Board to be used for the Virginia Highway Safety Improvement Program established*
367 *pursuant to § 33.2-373.*

2. *D.* If a photo speed monitoring device is used, proof of a ~~violation of § 46.2-873 or 46.2-878.1 vehicle speed violation~~ shall be evidenced by information obtained from such device. A certificate, or a facsimile thereof, sworn to or affirmed by a law-enforcement officer, based upon inspection of photographs, microphotographs, videotapes, or other recorded images produced by a photo speed monitoring device, shall be prima facie evidence of the facts contained therein. Any photographs, microphotographs, videotapes, or other recorded images evidencing such a violation shall be available for inspection in any proceeding to adjudicate the liability for such ~~violation of § 46.2-873 or 46.2-878.1 vehicle speed violation~~.

3. *E.* In the prosecution for a ~~violation of § 46.2-873 or 46.2-878.1 vehicle speed violation~~ in which a summons was issued by mail, prima facie evidence that the vehicle described in the summons issued pursuant to this section was operated in ~~violation of § 46.2-873 or 46.2-878.1 a manner constituting a vehicle speed violation~~, together with proof that the defendant was at the time of such violation the owner, lessee, or renter of the vehicle, shall constitute in evidence a rebuttable presumption that such owner, lessee, or renter of the vehicle was the person who committed the violation. Such presumption shall be rebutted if the owner, lessee, or renter of the vehicle (i) files an affidavit by regular mail with the clerk of the general district court that he was not the operator of the vehicle at the time of the alleged violation and provides the name and address of the person who was operating the vehicle at the time of the alleged violation or (ii) testifies in open court under oath that he was not the operator of the vehicle at the time of the alleged violation and provides the name and address of the person who was operating the vehicle at the time of the alleged violation. Such presumption shall also be rebutted if a certified copy of a police report, showing that the vehicle had been reported to the police as stolen prior to the time of the alleged ~~violation of § 46.2-873 or 46.2-878.1 vehicle speed violation~~, is presented, prior to the return date established on the summons issued pursuant to this section, to the court adjudicating the alleged violation.

4. *F.* Imposition of a penalty pursuant to this section by mailing a summons shall not be deemed a conviction as an operator and shall not be made part of the operating record of the person upon whom such liability is imposed, nor shall it be used for insurance purposes in the provision of motor vehicle insurance coverage. However, if a law-enforcement officer uses a photo speed monitoring device to record a ~~violation of § 46.2-873 or 46.2-878.1 vehicle speed violation~~ and personally issues a summons at the time of the violation, the conviction that results shall be made a part of such driver's driving record and used for insurance purposes in the provision of motor vehicle insurance coverage.

5. *G.* A summons for a ~~violation of § 46.2-873 or 46.2-878.1 vehicle speed violation~~ issued by mail pursuant to this section may be executed pursuant to § 19.2-76.2. Notwithstanding the provisions of § 19.2-76, a summons issued by mail pursuant to this section may be executed by mailing by first-class mail a copy thereof to the owner, lessee, or renter of the vehicle. In the case of a vehicle owner, the copy shall be mailed to the address contained in the records of or accessible to the Department. In the case of a vehicle lessee or renter, the copy shall be mailed to the address contained in the records of the lessor or renter. Every such mailing shall include, in addition to the summons, a notice of (i) the summoned person's ability to rebut the presumption that he was the operator of the vehicle at the time of the alleged violation through the filing of an affidavit as provided in ~~subdivision 3 subsection E~~ and (ii) instructions for filing such affidavit, including the address to which the affidavit is to be sent. If the summoned person fails to appear on the date of return set out in the summons mailed pursuant to this section, the summons shall be executed in the manner set out in § 19.2-76.3. No proceedings for contempt or arrest of a person summoned by mailing shall be instituted for failure to appear on the return date of the summons. If the summons is issued to an owner, lessee, or renter of a vehicle with a registration outside the Commonwealth and such person fails to appear on the date of return set out in the summons mailed pursuant to this section, the summons will be eligible for all legal collections activities. Any summons executed for a ~~violation of § 46.2-873 or 46.2-878.1 vehicle speed violation~~ issued pursuant to this section shall provide to the person summoned at least 30 days from the mailing of the summons to inspect information collected by a photo speed monitoring device in connection with the violation. If the law-enforcement agency that was operating the photo speed monitoring device does not execute a summons for a ~~violation of § 46.2-873 or 46.2-878.1 vehicle speed violation~~ issued pursuant to this section within 30 days from the date of the violation, all information collected pertaining to that suspected violation shall be purged within 60 days from the date of the violation.

6. *H.* A private vendor may enter into an agreement with a law-enforcement agency to be compensated for providing a photo speed monitoring device and all related support services, including consulting, operations, and administration. However, only a law-enforcement officer may swear to or affirm the certificate required by this ~~subsection~~ section. Any such agreement for compensation shall be based on the value of the goods and services provided, not on the number of violations paid or monetary penalties imposed. Any private vendor contracting with a law-enforcement agency pursuant to this section may enter into an agreement with the Department, in accordance with the provisions of

subdivision B 31 of § 46.2-208, to obtain vehicle owner information regarding the registered owners of vehicles that committed a ~~violation of § 46.2-873 or 46.2-878.1~~ *vehicle speed violation*. Any such information provided to such private vendor shall be protected in a database.

7. I. Information collected by a photo speed monitoring device operated pursuant to this section shall be limited exclusively to that information that is necessary for the enforcement of ~~school crossing zone and highway work zone speeding~~ *vehicle speed* violations. Information provided to the operator of a photo speed monitoring device shall be protected in a database and used only for enforcement of *vehicle speed violations and enforcement* against individuals who violate the provisions of this section ~~or § 46.2-873 or 46.2-878.1~~. Notwithstanding any other provision of law, all photographs, microphotographs, videotapes, or other recorded images collected by a photo speed monitoring device shall be used exclusively for enforcing ~~school crossing zone and highway work zone speed limits~~ *vehicle speed violations* and shall not be (i) open to the public; (ii) sold or used for sales, solicitation, or marketing purposes; (iii) disclosed to any other entity except as may be necessary for the enforcement of ~~school crossing zone and highway work zone speed limits~~ *a vehicle speed violation* or to a vehicle owner or operator as part of a challenge to the violation; or (iv) used in a court in a pending action or proceeding unless the action or proceeding relates to a *vehicle speed violation or a violation* of this section ~~or § 46.2-873 or 46.2-878.1~~, or such information is requested upon order from a court of competent jurisdiction. Information collected under this section pertaining to a specific violation shall be purged and not retained later than 60 days after the collection of any civil penalties. Any law-enforcement agency using photo speed monitoring devices shall annually certify compliance with this section and make all records pertaining to such system available for inspection and audit by the Commissioner of Highways or the Commissioner of the Department of Motor Vehicles or his designee. Any person who discloses personal information in violation of the provisions of this ~~subsection~~ shall be subject to a civil penalty of \$1,000 per disclosure.

8. J. A conspicuous sign shall be placed within 1,000 feet of any school crossing zone ~~or~~, highway work zone, *or high-risk intersection segment* at which a photo speed monitoring device is used, indicating the use of the device. There shall be a rebuttable presumption that such sign was in place at the time of the commission of the speed limit violation.

9. K. Any state or local law-enforcement agency that places and operates a photo speed monitoring device pursuant to the provisions of this section shall report to the Department of State Police, in a format to be determined by the Department of State Police, by January 15 of each year on the number of traffic violations prosecuted, the number of successful prosecutions, and the total amount of monetary civil penalties collected. The Department of State Police shall aggregate such information and report it to the General Assembly by February 15 of each year.